

SENATE BILL NO. 107

INTRODUCED BY J. SESSO

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ABILL FOR AN ACT ENTITLED: "AN ACT REVISING ADVERTISING REQUIREMENTS FOR STATE BUILDING CONSTRUCTION; PROVIDING FOR PUBLIC NOTICE OF BIDS; AMENDING SECTIONS 18-2-301 AND 18-2-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 18-2-301, MCA, is amended to read:

**"18-2-301. Bids required -- ~~advertising public notice.~~** (1) It is unlawful for any offices, departments, or institutions; or any agent of the state of Montana acting for or in on behalf of the state to do, to cause to be done, or to let any contract for the construction of buildings or the alteration and improvement of buildings and adjacent grounds on behalf of and for the benefit of the state when the amount involved is \$75,000 or more without first ~~advertising in at least one issue each week~~ providing public notice for 3 consecutive weeks ~~in two newspapers published in the state, one of which must be published at the seat of government and the other in the county where the work is to be performed~~; calling for sealed bids to perform the work and stating the time and place bids will be considered. Notice may include electronic notification, publication in newspapers of general circulation, or other appropriate means.

(2) All work may be done, caused to be done, or contracted for only after competitive bidding.

(3) If responsible bids are not received after two attempts, the department or agency may contract for the work in a manner determined to be cost-effective for the state.

(4) This section does not apply to work done by inmates at an institution in the department of corrections.

(5) (a) The provisions of Montana law governing advertising and competitive bidding do not apply when the department of fish, wildlife, and parks is preserving or restoring the historic buildings and resources that it owns at Bannack if:

(i) the options listed in subsection (5)(b) are determined to be more cost-effective for the state; and

(ii) the implementation of the options listed in subsection (5)(b) is necessary to save historic buildings and resources from degradation and loss.

(b) For the preservation or restoration of historic buildings and resources at Bannack when the conditions

1 listed in subsection (5)(a) are met, the department of fish, wildlife, and parks may accomplish the preservation  
2 or restoration through:

3 (i) a memorandum of understanding with a local, state, or federal entity or nonprofit organization when  
4 the entity or organization demonstrates the competence, knowledge, and qualifications to preserve or restore  
5 historic resources;

6 (ii) the use of qualified and trained department of fish, wildlife, and parks employees and volunteers;

7 (iii) a training program in historic preservation and restoration conducted by a qualified local, state, or  
8 federal entity or a qualified nonprofit organization; or

9 (iv) any combination of the options described in this subsection (5)(b)."  
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11 **Section 2.** Section 18-2-501, MCA, is amended to read:

12 **"18-2-501. (Temporary) Definitions.** As used in this part, unless the context clearly requires otherwise,  
13 the following definitions apply:

14 (1) (a) "Alternative project delivery contract" means a construction management contract, a general  
15 contractor construction management contract, or a design-build contract.

16 (b) The term does not include a design-build contract awarded by the transportation commission under  
17 60-2-111(3).

18 (2) "Construction management contract" means a contract in which the contractor acts as the public  
19 owner's construction manager and provides leadership and administration for the project, from planning and  
20 design, in cooperation with the designers and the project owners, to project startup and construction completion.

21 (3) "Contractor" has the meaning provided in 18-4-123.

22 (4) "Design-build contract" means a contract in which the designer-builder assumes the responsibility  
23 and the risk for architectural or engineering design and construction delivery under a single contract with the  
24 owner.

25 (5) "General contractor construction management contract" means a contract in which the general  
26 contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary  
27 construction services, equipment, supplies, and materials through competitive bidding contracts with  
28 subcontractors and suppliers to construct the project.

29 (6) "Governing body" means:

30 (a) the legislative authority of:

- 1 (i) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;
- 2 (ii) a school district established pursuant to Title 20; or
- 3 (iii) an airport authority established pursuant to Title 67, chapter 11;
- 4 (b) the board of directors of a county water or sewer district established pursuant to Title 7, chapter 13,
- 5 parts 22 and 23; or
- 6 (c) the trustees of a fire district established pursuant to Title 7, chapter 33, or the county commissioners
- 7 or trustees of a fire service area established pursuant to 7-33-2401.
- 8 (7) "Project" means any construction or any improvement of the land, a building, or another improvement
- 9 that is suitable for use as a state or local governmental facility.
- 10 (8) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, ~~48-2-301~~, and 20-9-204
- 11 or of public notice pursuant to 18-2-301.
- 12 (9) "State agency" has the meaning provided in 2-2-102. (Terminates December 31, 2024--sec. 6, Ch.
- 13 54, L. 2017.)
- 14 **18-2-501. (Effective January 1, 2025) Definitions.** As used in this part, unless the context clearly
- 15 requires otherwise, the following definitions apply:
- 16 (1) "Alternative project delivery contract" means a construction management contract, a general
- 17 contractor construction management contract, or a design-build contract.
- 18 (2) "Construction management contract" means a contract in which the contractor acts as the public
- 19 owner's construction manager and provides leadership and administration for the project, from planning and
- 20 design, in cooperation with the designers and the project owners, to project startup and construction completion.
- 21 (3) "Contractor" has the meaning provided in 18-4-123.
- 22 (4) "Design-build contract" means a contract in which the designer-builder assumes the responsibility
- 23 and the risk for architectural or engineering design and construction delivery under a single contract with the
- 24 owner.
- 25 (5) "General contractor construction management contract" means a contract in which the general
- 26 contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary
- 27 construction services, equipment, supplies, and materials through competitive bidding contracts with
- 28 subcontractors and suppliers to construct the project.
- 29 (6) "Governing body" means:
- 30 (a) the legislative authority of:

1 (i) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;

2 (ii) a school district established pursuant to Title 20; or

3 (iii) an airport authority established pursuant to Title 67, chapter 11;

4 (b) the board of directors of a county water or sewer district established pursuant to Title 7, chapter 13,  
5 parts 22 and 23; or

6 (c) the trustees of a fire district established pursuant to Title 7, chapter 33, or the county commissioners  
7 or trustees of a fire service area established pursuant to 7-33-2401.

8 (7) "Project" means any construction or any improvement of the land, a building, or another improvement  
9 that is suitable for use as a state or local governmental facility.

10 (8) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, ~~48-2-301~~, and 20-9-204  
11 or of public notice pursuant to 18-2-301.

12 (9) "State agency" has the meaning provided in 2-2-102, except that the department of transportation,  
13 provided for in 2-15-2501, is not considered a state agency."

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15 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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